



Agenda Date: 11/20/01
Agenda Item: 3B

STATE OF NEW JERSEY
Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

IN THE MATTER OF COMCAST)	<u>CABLE TELEVISION</u>
CABLEVISION OF NEW JERSEY, LLC –)	
TOMS RIVER FOR APPROVAL OF THE)	
FILING OF FCC FORM 1205 DETERMINING)	
REGULATED EQUIPMENT AND)	ORDER ADOPTING STIPULATION
INSTALLATION COSTS USING THE)	
OPTIONAL EXPEDITED RATE)	
PROCEDURES)	DOCKET NO. CR01050286

(SERVICE LIST ATTACHED)

BY THE BOARD:

On May 1, 2001, Comcast Cablevision of New Jersey, LLC – Toms River ("Petitioner") filed an aggregate Federal Communications Commission ("FCC") Form 1205, Docket Number CR01050286, for regulated equipment and installation costs for the systems pursuant to the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. § 543 et seq., and provisions of the New Jersey Cable Television Act, N.J.S.A. 48:5A-1 et seq.

The Board, at its public meeting on January 10, 1996, in Docket Number CX95120636, approved the implementation of Optional Expedited Rate Procedures for the processing of certain filings made with the Office of Cable Television ("OCTV"). The intended purpose of these procedures is to grant final rates as quickly as possible to any cable company that chooses this process. In the spirit of cooperation based on the principles of Alternate Dispute Resolution ("ADR"), the discovery content is limited, thereby reducing the timeframe for settlement.

Petitioner chose to pursue the aggregate filing with the Board through the approved procedures. To that end, a pre-transmittal conference was held on May 31, 2001 and attended by representatives of the Petitioner, the Division of the Ratepayer Advocate and Board Staff (collectively "the Parties"). Petitioner agreed to waive its Office of Administrative Law ("OAL") litigation rights for this matter. It should be noted that Petitioner's waiver was a knowing, voluntary and intelligent waiver of its litigation rights at the OAL and that the waiver did not constitute a circumvention of the FCC rules nor did it affect Petitioner's right to appeal in that forum.

On December 21, 2000, under Docket Number CM00030167, the Board approved the transfer of assets from Adelphia Cable Communications ("Adelphia"), the former operator of the Toms

River cable systems, to Petitioner; and

On May 9, 2001, under Docket Numbers CR94060238 et al., the Board issued an Order approving a Global Settlement that, among other things, entitled Petitioner to market and provide to subscribers in its New Jersey cable systems an optional wire maintenance plan, commonly known as "CableGuard Service", at the current prevailing monthly rate of \$.30 per household, and further provided that the monthly rate for CableGuard Service may be subject to prospective adjustments beginning February 1, 2002, upon at least 30 days advance notice to the Office of Cable Television ("OCTV").

Petitioner notified customers of the systems of the proposed rates by way of newspaper announcements informing them of their opportunity to submit written comments to the Board for a period of thirty days. The notices appeared in the Observer on September 23, 2001. During this time, no comments were received as a result of these public notices.

On July 2, 2001, Petitioner submitted a proposed tariff that included CableGuard Service and an existing monthly additional outlet charge of \$.72 per outlet, in accordance with the tariff filed by its predecessor, Adelphia, the former operator of the Toms River cable systems.

Upon review, Staff and the Ratepayer Advocate asserted that the original basis for the \$.72 additional outlet charge no longer exists, and that it should be discontinued. In an effort to resolve this issue and settle all related matters, Petitioner was amenable to eliminate the \$.72 additional charge and would provide, instead, its CableGuard Service.

Settlement conferences were held on June 8, October 18, 19, 29, 30 and 31, 2001. On November 1, 2001, the Parties entered into a Stipulation of Settlement.

In order to avoid undue delay in the processing of the cost reduction to customers affected by the change in wire maintenance charges, the Parties request that the Board waive the customary thirty (30) day subscriber, tariff and municipal notice period before the change could go into effect.

The Board, after review, FINDS that it is in the public interest to effectuate the rate change as soon as possible and without delay. The requested waiver is, therefore, GRANTED.

The Board, therefore, DIRECTS Petitioner to issue the refund due its subscribers in the Toms River systems pursuant to the Stipulation of Settlement within forty-five (45) days of the date of this Order, and to inform the subscribers of the reason for the refund. Said refund shall be denominated "BPU Refund" on subscribers' bills.

Petitioner, within ten (10) days of the final payment of the refund to subscribers, is HEREBY ORDERED to notify the OCTV in writing of the date the refund was paid, the total amount refunded and to certify that the refund has been completed.

The Board has reviewed the Stipulation and FINDS it to be reasonable, in the public interest and in accordance with the law. Therefore, the Board HEREBY ADOPTS the Stipulation of Settlement (attached hereto) as its own, incorporating by reference the terms and conditions therein as if fully set forth at length herein.

The Board FURTHER ORDERS that should the systems, or any part thereof, merge, and/or migrate to another system, be upgraded and/or rebuilt, its ownership or control be otherwise sold

or transferred to another entity, the basic service tier rate that will be eliminated or superseded as a result of the merger, migration, upgrade, rebuild, sale or transfer must be "trued-up" [47 C.F.R. § 76.922 (e) (3)]. The final true-up for the affected system, or any part thereof, should be calculated on FCC Form 1240 and begin where the last true-up period ended on its prior FCC Form 1240. This true-up calculation shall be filed with the Board when all the affected subscribers are being charged the rate resulting from the merger, migration, upgrade, rebuild, sale or transfer and may be filed in conjunction with the annual rate adjustment cycle (Form 1240) established as a result of said merger, migration, upgrade, rebuild, sale or transfer.

The cable systems, or any part thereof, may be subsequently deregulated as a result of a finding by the Board, the FCC or other party of competent jurisdiction, that the system, or any portion thereof, is subject to effective competition. Should that be the case, the last basic service rate established as a result of a prior FCC Form 1240 or such subsequent rate calculation method as may be heretofore adopted by the Board, the FCC or other party of competent jurisdiction, prior to the deregulation of any rate that is now or may in the future be subject to the Board's jurisdiction, must be trued-up for the period of time that the affected rates were subject to regulation by the Board.

DATED: November 20, 2001

BOARD OF PUBLIC UTILITIES
BY:

(signed)

CONNIE O. HUGHES
PRESIDENT

(signed)

FREDERICK F. BUTLER
COMMISSIONER

(signed)

CAROL J. MURPHY
COMMISSIONER

ATTEST:

(signed)

HENRY M. OGDEN
ACTING BOARD SECRETARY

IN THE MATTER OF
COMCAST CABLEVISION OF NEW JERSEY, LLC – TOMS RIVER
FCC FORM 1205 USING THE
OPTIONAL EXPEDITED RATE PROCEDURES

DOCKET NUMBER: CR01050286

Brian W. Earnshaw
Vice President & Controller Eastern Division
Comcast Cable Communications, Inc.
200 Cresson Boulevard
Oaks, Pennsylvania 19456

Dennis C. Linken, Esq.
Stryker, Tams & Dill, LLP
Two Penn Plaza East
Newark, New Jersey 07102

Lawanda Gilbert, Esq.
Deputy Ratepayer Advocate
Elana Shapochnikov, Esq.
Assistant Ratepayer Advocate
State of New Jersey
Division of Ratepayer Advocate
31 Clinton Street - 11th Floor
Newark, New Jersey 07102

Andrea Crane
The Columbia Group
38C Grove Street
Ridgefield, CT 06877